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U. S. DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

I AM DELIGHTED TO HAVE THE OPPORTUNITY TO BE HERE TODAY
AND TO PARTICIPATE IN AN EXERCISE THAT I PERSONALLY FEEL IS
OF EXTREME IMPORTANCE, AND ONE WHICH COULD NOT BE MORE
TIMELY, SINCE THE STRATEGIC CHOICES WE MAKE IN AGRICULTURE
MARKETING TODAY WILL IN MANY WAYS SHAPE THE FUTURE OF OUR
ENTIRE NATIONAL AGRICULTURAL ECONOMY FOR MANY YEARS TO
COME. THE SPECIFIC TOPIC ON WHICH I'VE BEEN ASKED TO SPEAK
IS "THE USDA LOOKS AT MARKETING ORDERS." I WAS PLEASED TO
HAVE BEEN GIVEN THIS TOPIC SINCE FOR SOME TIME NOW I'VE
FELT THAT THERE WAS A NEED TO CLEARLY AND COMPLETELY
PRESENT THE USDA'S VIEWS ON THIS COMPLEX SUBJECT. THIS IS

REMARKS BY MR. P. R. "BOBBY" SMITH, ASSISTANT SECRETARY OF
AGRICULTURE FOR MARKETING AND TRANSPORTATION SERVICES BEFORE
THE CALIFORNIA STATE POLYTECHNICAL UNIVERSITY SYMPOSIUM ON
STRATEGIC ALTERNATIVES IN AGRICULTURAL MARKETING FOR THE
1980'S, SATURDAY, MARCH 24, 1979, POMONA, CALIFORNIA

WHAT I PROPOSE TO DO THIS MORNING.

THE MARKETING AGREEMENTS AND ORDERS PROGRAM OF THE U.S. DEPARTMENT OF AGRICULTURE, AND OUR FARM COOPERATIVE ACTIVITIES, ARE PERHAPS THE MOST COMPLEX, AND CONSEQUENTLY THE MOST EASILY MISUNDERSTOOD ACTIVITIES WE HAVE AT USDA. THESE PROGRAMS ARE THE PRODUCT OF A LEGISLATIVE MANDATE GIVEN TO US BY THE CONGRESS, PRIMARILY THROUGH THE CAPPER-VOLSTEAD ACT OF 1922, AND THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937. THIS MANDATE IS NOT ONLY A RECOGNITION AND ENDORSEMENT OF THE VITAL LINKAGE BETWEEN AGRICULTURAL COOPERATIVES AND AN EFFECTIVE SELF HELP MARKETING PROGRAM FOR FARMERS, BUT ALSO A DEMONSTRATION

OF AN AWARENESS OF THE UNIQUE SITUATION AGRICULTURAL
PRODUCERS IN THIS COUNTRY ARE IN.

THE ADMINISTRATION'S ATTITUDE TOWARDS FARMER
COOPERATIVES AND MARKETING ORDERS IS A REALISTIC ONE BASED
ON AN UNDERSTANDING OF WHAT COOPS AND MARKETING AGREEMENTS
ARE INTENDED TO DO AND WHAT THEIR LIMITATIONS ARE UNDER
THE LAW. IT IS NOT BASED ON ANY ROMANTICIZED NOTION OF
THE SIMPLE FARM LIFE, BUT ON THE HARSH REALITY OF MODERN
ECONOMICS AND AN INCREASINGLY COMPETITIVE YET INTERRELATED
WORLD ECONOMY.

BOTH PRESIDENT CARTER AND SECRETARY BERGLAND ARE
STRONG PERSONAL SUPPORTERS OF THE CONCEPT OF AGRICULTURAL

COOPERATIVES. THEY RECOGNIZE THAT THE BUSINESS OF FARMING AND THE MARKETING AND DISTRIBUTION OF FARM PRODUCTS ARE DIFFERENT FROM THE PRODUCTION AND DISTRIBUTION OF ANYTHING ELSE IN OUR ECONOMY. THE ADMINISTRATION'S ATTITUDE IS BASED ON THE LONG EXPERIENCE THE FEDERAL GOVERNMENT HAS HAD IN THIS AREA. PRODUCTION AND DISTRIBUTION OF AGRICULTURAL PRODUCTS ARE RECOGNIZED AS SPECIAL PROBLEMS BY THE CONGRESS, THROUGH THE LAWS THEY HAVE PASSED, BY ECONOMISTS IN THE THEORIES THEY HAVE DESIGNED, AND FOR DECADES IN THE PUBLIC POLICY FOLLOWED BY SUCCESSIVE ADMINISTRATIONS REGARDLESS OF POLITICAL PERSUASION. WE BELIEVE THIS IS A FIRM FOUNDATION AND FEEL NO NEED

FOR DRAMATIC CHANGES IN THE POLICIES THAT HAVE PROVEN
THEMSELVES SO SUCCESSFUL FOR SO LONG.

IN MANY WAYS THE ADVANTAGES FARMERS ARE GIVEN UNDER
THE CAPPER-VOLSTEAD ACT OF 1922 ARE MORE IMPORTANT NOW
THAN THEY HAVE EVER BEEN FOR THE SURVIVAL OF THE FAMILY
FARM.

A FEW YEARS AGO A FORMER SECRETARY OF AGRICULTURE
TOLD AMERICAN FARMERS TO "GET BIG OR GET OUT." THIS
UNSOLICITED ADVICE PERHAPS DID MORE DAMAGE TO THE AMERICAN
FARM SYSTEM THAN ANYTHING IN THE PAST DECADE AS THOUSANDS
OF AMERICAN FARMERS WERE ENCOURAGED TO EXTEND THEMSELVES
FAR BEYOND THEIR MEANS IN AN EFFORT TO DO WHAT THE

SECRETARY TOLD THEM THEY HAD TO DO IN ORDER TO SURVIVE.

OBVIOUSLY THE RESULTS HAVE BEEN, IN MANY INSTANCES,

DISASTROUS. THE REAL ANSWER TO THE SURVIVAL OF THE

AMERICAN FAMILY FARM SYSTEM IS SIMPLE: PRODUCTION MUST

BE BROUGHT INTO LINE WITH EFFECTIVE DEMAND, AND INSTEAD

OF GETTING BIG, WHICH MAY BE IN THE INTEREST OF SOME FARM

OPERATIONS, BUT NOT NECESSARILY ALL, FARMERS MUST GET

CONTROL OF AS MUCH OF THE MARKETING SYSTEM AS THEY POSSIBLY

AND PROPERLY CAN. IN SHORT, THE ANSWER IS NOT TO GET BIG,

BUT TO COOPERATE. FOR MOST SMALL FARMERS THIS KIND OF

ADVICE WOULD BE NONSENSE IF IT WERE NOT FOR THE MARKETING

ADVANTAGES THEY HAVE AVAILABLE TO THEM THROUGH THE MARKETING

ORDER AND COOPERATIVE SYSTEMS. THE IMMENSE ECONOMIC POWER WIELDED BY THE GROWING NUMBER OF MULTINATIONAL CORPORATIONS AND MASSIVE DOMESTIC BUSINESS CONCERNS IS OBVIOUSLY MORE THAN ENOUGH TO DWARF EVEN AMERICA'S LARGEST FARMERS ACTING AS INDIVIDUALS. TO USE A SOMEWHAT LOADED WORD THESE DAYS, WITHOUT SOME FORM OF SPECIAL PROTECTION, FARMERS COULD NEVER THINK OF ACHIEVING PARITY IN THEIR DEALINGS WITH THE ECONOMIC CONCERNS THAT BUY THEIR PRODUCE.

THE FUNDAMENTAL PRINCIPLE OF COOPERATIVE MARKETING BY AGRICULTURAL PRODUCERS IS TO PROVIDE PRODUCERS WITH A MEANS TO COUNTER BALANCE THE INHERENT MARKET POWER OF HANDLERS AND PROCESSORS AND THUS IMPROVE EFFICIENCY AND ACHIEVE EQUITABLE TREATMENT. THIS IS A CONCEPT WHICH HAS

CONTRIBUTED MUCH TO THE STABILITY AND CONTINUED SURVIVAL
OF THE FAMILY FARM SYSTEM. TO INSURE EQUITY IN THE
MARKETPLACE THE CAPPER-VOLSTEAD ACT OF 1922 EXEMPTS
AGRICULTURAL COOPERATIVES FROM CERTAIN ANTITRUST PROVISIONS
AND ENCOURAGES RATHER THAN PROHIBITS FARMERS JOINING TOGETHER
TO INFLUENCE ACTIVITY IN THE MARKETPLACE. THIS IS THE POINT
AT WHICH CRITICISM OF THE COOPERATIVE SYSTEM SEEMS ALWAYS
TO COME TO REST. A VAGUE OR INACCURATE NOTION OF WHAT
AGRICULTURAL COOPERATIVES DO AND OF THE POWERS THEY HAVE,
AND A LACK OF UNDERSTANDING OF THE COMPLEXITY OF THE
AGRICULTURAL MARKETING SYSTEM IN THIS COUNTRY AND THE
UNCERTAINTY OF AGRICULTURAL PRODUCTION AS A WAY OF LIFE

EVERYWHERE IN THE WORLD IS THE SOURCE FROM WHICH MOST CRITICISM STEMS. THE CAPPER-VOLSTEAD ACT OF 1922 DOES INDEED PERMIT FARMERS TO JOIN TOGETHER TO PROCESS, PREPARE FOR MARKET, HANDLE AND MARKET THE FARM PRODUCTS OF COOPERATIVE MEMBERS AND PATRONS.

IN HIS TESTIMONY BEFORE THE NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES LAST JULY, SECRETARY BERGLAND PROVIDED AN EXCELLENT SUMMARY OF WHAT FARM COOPS CAN AND CANNOT DO, AND I WOULD LIKE TO PARAPHRASE, IF I MIGHT, WHAT THE SECRETARY HAD TO SAY:

COOPERATIVES ARE VOLUNTARY ORGANIZATIONS WHICH IN ORDER TO QUALIFY UNDER SECTION 1 OF THE CAPPER-VOLSTEAD ACT,

THAT SECTION DEALING WITH ANTITRUST EXEMPTIONS, MUST BE OWNED AND OPERATED BY FARMERS WHO SELL THROUGH THEM AND MUST BE OPERATED FOR THE MUTUAL BENEFIT OF THE MEMBERS. THEY MUST NOT GENERATE PROFITS FOR THEMSELVES, BUT MUST ONLY ASSIST IN EXTENDING THE BUSINESS OF THE FARM TO THOSE FUNCTIONS THAT WOULD OTHERWISE BE UNDER THE CONTROL OF NON FARMERS.

COOPERATIVES MAY PAY ONLY A LIMITED RETURN TO SHAREHOLDERS AND THEY ARE STRICTLY LIMITED IN THE AMOUNT OF PRODUCTION THEY CAN HANDLE FOR NON MEMBERS. IN ADDITION TO THESE RESTRICTIONS, ONCE A COOPERATIVE IS FORMED, IT IS LIMITED IN ITS BUSINESS ACTIVITIES IN MUCH THE SAME WAY AS NON-COOPERATIVE BUSINESS.

(1) THE CAPPER-VOLSTEAD EXEMPTIONS MAY BE LOST IF THE COOPERATIVE INCLUDES PERSONS WHO ARE NOT PRODUCERS ENGAGED IN ACTUAL AGRICULTURAL PRODUCTION.

(2) WHERE COOPERATIVES COMBINE OR CONSPIRE WITH NON-COOPERATIVES OR PERSONS OTHER THAN PRODUCERS TO MONOPOLIZE OR RESTRAIN TRADE, THEY ARE SUBJECT TO THE ANTITRUST LAWS.

(3) COOPERATIVES WHICH ENGAGE IN PREDATORY, UNFAIR OR COERCIVE CONDUCT IN ORDER TO RESTRAIN TRADE OR MONOPOLIZE OR WHICH ATTEMPT TO MONOPOLIZE TRADE AND COMMERCE ARE SUBJECT TO ACTION UNDER SECTIONS 1 AND 2 OF THE SHERMAN ACT EVEN THOUGH PRICE IS NOT UNDULY ENHANCED.

(4) COOPERATIVES VIOLATE THE ANTITRUST LAWS IF THEY AGREE NOT TO SELL TO A PARTICULAR PERSON OR AGREE ON A DIVISION OF TERRITORY OR CUSTOMERS.

(5) COOPERATIVES ARE PROHIBITED FROM PARTICIPATING IN A GROUP BOYCOTT.

(6) THEY CANNOT CONTROL THE RESALE PRICES OF CUSTOMERS.

(7) COOPERATIVES' PARTICIPATION IN FULL SUPPLY CONTRACTS ARE ILLEGAL WHEN MADE FOR THE PURPOSE OF ELIMINATING OR SUPPRESSING COMPETITION.

IN SHORT, THESE RULES OF OUR NATIONAL ANTITRUST POLICY APPLY TO COOPERATIVES JUST AS THEY DO TO ANY OTHER BUSINESS. THE EXEMPTIONS, SUCH AS PURELY INTER-COOPERATIVE MERGERS AND COORDINATION THROUGH MARKETING AGENCIES IN COMMON,

DO NOT COME FROM ARBITRARY TREATMENT FOR COOPERATIVES.

INSTEAD, THEY ARE LOGICAL RESULTS OF THE BASIC IDEA OF

FARMERS' COOPERATIVES: THAT FARMERS THEMSELVES MUST BE

ABLE TO COORDINATE THEIR EFFORTS WITHOUT GIVING UP THEIR

INDIVIDUALITY AS PRODUCERS.

HAVING BEEN A FARMER IN GEORGIA FOR MANY YEARS I

HAVE ENJOYED THE BENEFITS AVAILABLE TO ME THROUGH

AGRICULTURAL COOPERATIVES, BUT I AM A MEMBER OF A MINORITY

IN THIS COUNTRY. WE ARE REACHING A POINT DEMOGRAPHICALLY

WHEN MOST AMERICANS HAVE NO PERSONAL KNOWLEDGE OF THE

FARMING PROCESS. EVERY YEAR THOUSANDS OF AMERICANS LEAVE

THE FARM AND WE ARE AT A POINT WHERE ONLY A 2½ MILLION

FARMS ARE PRODUCING FOOD AND FIBER FOR OVER 200 MILLION AMERICANS, PLUS TENS OF MILLIONS MORE OVERSEAS. AS THIS DISTANCE GROWS, INDIVIDUAL CITIZENS CEASE TO UNDERSTAND THE SPECIAL NATURE OF THE FARMING PROCESS. IN AN INCREASINGLY COMPLEX AND TECHNOLOGICAL WORLD AGRICULTURE IS A GLARING ANOMALY. IT IS A SINGULAR BIOLOGICAL PROCESS IN AN INCREASINGLY MECHANICAL WORLD. NO OTHER INDUSTRY OPERATES WITH LESS CERTAINTY AS TO HOW MUCH PRODUCTION WILL BE FORTHCOMING IN A GIVEN YEAR OR WHAT ITS VALUE IS LIKELY TO BE. WHILE FARM COOPERATIVES ARE A REFLECTION OF THE SPECIAL NEEDS OF AGRICULTURE AS AN ECONOMIC ENDEAVOR, MARKETING ORDERS MIGHT BE VIEWED AS A MEANS BY WHICH THE BIOLOGICAL PROCESS OF PRODUCTION IS RATIONALIZED TO FIT

THE NEEDS OF THE MODERN MARKETPLACE. WITH SUCH LIMITED UNDERSTANDING ON THE PART OF THE AVERAGE AMERICAN, IT IS NO WONDER THAT COOPERATIVES AND MARKETING AGREEMENTS AND ORDERS ARE LOOKED ON WITH SOME DEGREE OF SUSPICION.

TO CLEARLY UNDERSTAND THE ROOTS OF THE CURRENT SCRUTINY TO WHICH THESE KINDS OF MARKETING PROGRAMS ARE BEING SUBJECTED, I THINK WE HAVE TO LOOK AT THE NATIONAL AND INTERNATIONAL ECONOMIC BACKDROP AGAINST WHICH MOST PEOPLE VIEW THESE SYSTEMS, AND IN WHICH WE IN AGRICULTURE MUST OPERATE AND MAKE DECISIONS.

THE MASSIVE ECONOMIC EXPANSION WHICH BEGAN WITH THE SECOND WORLD WAR CREATED IN THE MINDS OF MOST AMERICANS THE

BELIEF THAT WE WERE A NATION CAPABLE OF LIMITLESS GROWTH.

THE FUNDAMENTAL DOUBTS ABOUT THE BASIC HEALTH AND

SOUNDNESS OF OUR NATIONAL ECONOMIC SYSTEM GENERATED IN

THE GREAT DEPRESSION WERE MADE TO LOOK LUDICROUS IN LIGHT

OF THE TREMENDOUS NEW WEALTH CREATED DURING THIS TIME. IT

HAS ONLY BEEN IN RECENT YEARS THAT THIS FAITH HAS BEEN PUT

UNDER SERIOUS PRESSURE, FORCING PEOPLE AGAIN TO THE STARK

REALIZATION THAT THERE ARE PRACTICAL LIMITS TO THE AMOUNT

OF WEALTH ANY ECONOMY CAN GENERATE.

THE ARAB OIL EMBARGO OF 1973-74, THE RAPID DECLINE

IN THE VALUE OF THE DOLLAR, CONTINUING DEBILITATING INFLATION,

AND GROWING COMPETITION FROM ABROAD IN ALL SEGMENTS OF

PRODUCTION -- FROM STEEL TO AGRICULTURE, HAVE CAUSED MOST AMERICANS TO TAKE STOCK -- TO REFLECT ON OUR NATIONAL AND OUR PERSONAL ECONOMIC GOALS.

IN A SOCIETY OF LIMITLESS GROWTH WHAT WE HAVE IS OFTEN LESS IMPORTANT THAN WHAT WE BELIEVE WE WILL EVENTUALLY GET.

IN AN ECONOMY FACING UNCERTAIN OR LIMITED GROWTH, WHAT WE HAVE IS ALL IMPORTANT, AND DESERVING OF CLOSE ATTENTION AND PROTECTION.

MOST AMERICANS, THE OPINION POLLS TELL US, NO LONGER HAVE AN UNWAVERING FAITH IN THE NATIONAL ECONOMY: THIS FAITH HAS BEEN REPLACED BY FEAR OF FOREIGN COMPETITION, UNCERTAINTY OVER ENERGY SUPPLIES AND A CONCERN THAT INFLATION IS HERE TO STAY.

WE LIVE IN AN ECONOMIC PRESSURE COOKER, AND UNDER
CURRENT CONDITIONS, THE ECONOMIC SENSITIVITIES OF AMERICANS
AS INDIVIDUALS AND COLLECTIVELY AS ECONOMIC SECTORS HAVE
BEEN HEIGHTENED. AND SINCE WE LIVE IN A DEMOCRATIC SYSTEM
IT IS RIGHT THAT THE PUBLIC POLICY PROCESS RESPOND TO THESE
HEIGHTENED SENSITIVITIES WITH POLICIES AND PROGRAMS THAT WILL
INSURE AS MUCH AS POSSIBLE EQUITY IN OUR NATIONAL ECONOMIC
LIFE. THIS IS THE FORCE BEHIND PRESIDENT CARTER'S DRIVE TO
BALANCE THE BUDGET; AND REQUIRE THE NATION LIVE WITHIN
HIS EFFORT TO ELIMINATE BURDENSOME GOVERNMENT REGULATIONS
AND RED TAPE, AND THE REASON HE HAS SOUGHT FARM PROGRAMS
THAT DO NOT SET COMMODITY PRICES ARTIFICIALLY HIGH AND
ENERGY POLICIES THAT DO NOT SET FUEL PRICES ARTIFICIALLY LOW.

IN MANY WAYS, WE ARE IN THE MIDST OF A PERIOD OF RE-
EXAMINATION AND REEVALUATION OF OUR ENTIRE ECONOMIC,
SOCIAL AND POLITICAL SYSTEM. I CAN FIND NO BETTER EVIDENCE
OF THIS THAN THE CALLS WE ARE CONTINUALLY HEARING FOR A NEW
CONSTITUTIONAL CONVENTION.

ALL ASPECTS OF AGRICULTURE TOO ARE UNDER SCRUTINY.
FARMERS ARE RAISING FUNDAMENTAL QUESTIONS ABOUT THE PRICES
THEY PAY FOR THE INPUTS NECESSARY TO PRODUCE THEIR CROPS.
SOME SAY THE PRICES FARMERS RECEIVE ARE TOO LOW TO KEEP
THE FAMILY FARM ALIVE. MANY BELIEVE THAT GRAVE ECONOMIC
HARM IS BEING DONE BY IMPORTS, AND INTENSE DEBATES ARE
GOING ON OVER WHAT CONSTITUTES PROPER NUTRITION. AND, AS
YOU ARE ALL WELL AWARE, MARKETING ORDERS AND AGRICULTURAL

COOPERATIVES ARE BEING LOOKED AT FROM MANY ANGLES WITH THE FEAR THAT THEY UNDULY RESTRAIN COMPETITION AND ENHANCE PRICES.

THE NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES IS ONE OF THE MORE ORGANIZED MANIFESTATIONS OF THE NATIONAL RE-EXAMINATION AND RE-EVALUATION I DESCRIBED EARLIER. WHEN THIS COMMISSION WAS FIRST ORGANIZED AND ANNOUNCED THAT IT WOULD BE TAKING UP QUESTIONS SUCH AS AGRICULTURAL IMMUNITIES FROM ANTITRUST LAWS AND PROCEDURES, AND RAISING QUESTIONS ABOUT MARKETING AGREEMENTS AND ORDERS, MANY CONSIDERED THIS AS AN OUTRIGHT ATTACK ON THOSE SYSTEMS. MANY OF US IN THE DEPARTMENT OF

AGRICULTURE WERE SERIOUSLY CONCERNED WITH THE PRECISE DIRECTION THIS INQUIRY WOULD TAKE. ON JULY 27TH OF LAST YEAR, SECRETARY BERGLAND PERSONALLY PRESENTED A STRONG STATEMENT OUTLINING THE PECULIAR NATURE OF THESE SYSTEMS AND A LENGTHY AND PERSUASIVE EXPLANATION OF HOW THESE SYSTEMS CAME ABOUT AND WHY THEY CONTINUE TO BE SO VITAL TO THE HEALTH OF OUR NATIONAL FARM ECONOMY. I HAVE ALREADY QUOTED FOR YOU SEVERAL PORTIONS OF THIS STATEMENT.

ON JANUARY 16TH, 1979, THE NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES APPROVED AND SENT TO THE PRESIDENT ITS FINAL REPORT. WE IN AGRICULTURE FIND MANY POINTS WITH WHICH WE DISAGREE, AND SOME POINTS

WHERE THE COMMISSION IS SIMPLY IN ERROR IN ITS
UNDERSTANDING OF THE NATIONAL FARM ECONOMY. HOWEVER,
THE COMMISSION DID STATE THAT FARMERS SHOULD CONTINUE TO
ENJOY THE RIGHT TO FORM AGRICULTURAL COOPERATIVES, THAT
ENFORCEMENT OF CAPPER-VOLSTEAD SHOULD CONTINUE WITHIN
USDA AND THAT IT WAS NOT ABLE TO MAKE A DEFINITIVE
RECOMMENDATION CONCERNING THE CURRENT EXEMPTION FOR
MARKETING ORDERS.

WE IN USDA MUST NOW MOVE QUICKLY TO CEMENT OUR
RESPONSIBILITIES IN THESE AREAS.

WE IN THE DEPARTMENT OF AGRICULTURE BELIEVE THAT
THERE IS A NEED TO MOVE QUICKLY TO MEET THIS CHALLENGE IN
MONITORING AND ENFORCING THE LIMITATIONS PLACED ON FARM

COOPS.

AN INDEPENDENT UNIT WILL BE ESTABLISHED WITHIN
USDA WHICH WILL HAVE THE RESPONSIBILITY FOR MONITORING
THE ACTIVITIES OF COOPERATIVES IN ORDER TO BE CONSTANTLY
ALERT TO ANY POSSIBLE UNDUE PRICE ENHANCEMENT. ON OR
ABOUT APRIL 1 A TASK FORCE WILL BE MAKING RECOMMENDATIONS
TO THE SECRETARY ON PROCEDURES UNDER WHICH SUCH A UNIT
WOULD OPERATE. SOON THEREAFTER THE DEPARTMENT WILL
PREPARE AND ISSUE PROPOSED REGULATIONS UNDER SECTION 2
OF THE CAPPER-VOLSTEAD ACT.

THESE PROPOSED REGULATIONS WOULD ESTABLISH PROCEDURES
FOR RECEIVING AND DEALING WITH COMPLAINTS.

THESE REGULATIONS WILL PROVIDE A DEFINITION OF UNDUE PRICE ENHANCEMENT. THE MEANING OF THE TERM WILL UNDOUBTEDLY BE REFINED OVER THE YEARS ON A CASE-BY-CASE BASIS, JUST AS ALL OTHER TERMS IN THE ANTITRUST LAWS HAVE BECOME DEFINED.

ENFORCEMENT OF THE UNDUE PRICE ENHANCEMENT PROVISIONS WILL NOT DEPEND ON THE RECEIPT OF COMPLAINTS. THE NEW UNIT IN THE SECRETARY'S OFFICE WILL MONITOR THE ACTIVITIES OF COOPERATIVES CONSTANTLY SEARCHING FOR PRICES WHICH ARE OUT OF LINE WITH MARKETING CONDITIONS. WHERE SUCH PRICES ARE FOUND, A CAREFUL INVESTIGATION WILL BE MADE TO DETERMINE WHETHER UNDUE PRICE ENHANCEMENT EXISTS. THIS WILL PROVIDE

CLOSER SURVEILLANCE OF THE PRICES OF COOPERATIVES THAN OF MOST ANY OTHER GROUP IN THE ECONOMY AND REBUT THE FREQUENT CHARGE THAT USDA DOES NOT HAVE A MECHANISM FOR CARRYING OUT ITS CAPPER-VOLSTEAD RESPONSIBILITIES.

IN CLOSING, I WOULD AGAIN LIKE TO QUOTE, AT SOME LENGTH, FROM TWO SECTIONS OF SECRETARY BERGLAND'S TESTIMONY TO THE ANTITRUST REVIEW COMMISSION WHICH I BELIEVE CLEARLY OUTLINE THE POSITION THE DEPARTMENT OF AGRICULTURE HAS TAKEN ON THESE QUESTIONS:

"THE EXEMPTION FROM ANTITRUST LAWS GIVEN TO FARMER COOPERATIVES IS A LIMITED, CAREFULLY DRAWN EXEMPTION, NARROWLY CONSTRUED BY THE COURTS TO ACHIEVE ONLY THE PURPOSES BEHIND THE EXEMPTION, AND USEFUL ONLY TO FARMERS IN THE DIFFICULT

TASK OF MOVING FOOD AND FIBER TO THE CONSUMER.

COOPERATIVES HAVE BEEN AND WILL CONTINUE TO BE
EXAMPLES OF EFFICIENCY IN THE FOOD SYSTEM. THEY HELP BRIDGE
THE GAP BETWEEN THE FARM GATE AND THE CONSUMER'S TABLE.
THEY BRING EFFICIENCY TO THE SYSTEM BECAUSE THEY THEMSELVES
ARE EFFICIENT. AND THEY FORCE OTHERS IN THE SYSTEM TO BE
EFFICIENT TO COMPETE. THEY SERVE BOTH THE PRODUCER AND
CONSUMER WELL AS THE YARDSTICK BY WHICH EFFECTIVE MARKETING
CAN BE MEASURED.

THE PUBLIC IS PROTECTED UNDER PRESENT LAW, AS ARE THE
FARMERS. THE PROTECTION IS BALANCED. THE PRESENCE OF
COOPERATIVES IN THE ECONOMY HAS HAD UNTOLD BENEFITS FOR US
ALL. IN FACT, WITHOUT STRONG COOPERATIVES, I CANNOT IMAGINE

AN ECONOMIC SYSTEM AS HEALTHY, AS PRODUCTIVE, AS
RESPONSIVE, OR AS EFFICIENT AS THE ONE PROVIDING US ALL
FOOD AT A REASONABLE PRICE.

BEFORE ANY LAW OR SET OF LAWS IS DECLARED "OBSOLETE,"
IT IS ABSOLUTELY ESSENTIAL TO UNDERSTAND WHAT THE
CONSEQUENCES OF CHANGE WILL BE. WHEN YOU DEAL WITH THE FOOD
SUPPLY OF AN ENTIRE NATION, AND THE LIVELIHOOD OF THOSE WHO
PRODUCE IT, EXPERIMENTATION MUST BE APPROACHED WITH EXTREME
CARE.

MY OWN VIEW, THE SECRETARY WENT ON TO SAY, "I BELIEVE
WELL SUPPORTED BY HISTORY, EXPERIENCE, AND RESERACH, IS
THAT THE CAPPER-VOLSTEAD ACT AND OUR MARKETING ORDER SYSTEM
ARE IN NO NEED OF STATUTORY MODIFICATION.

ACTIONS TO MODIFY THESE AGRICULTURAL PROVISIONS MAY BE INTENDED TO INCREASE COMPETITION, BUT THEY MAY IN FACT WEAKEN COMPETITION. THE BUYERS' SIDE OF THE AGRICULTURAL PRODUCT MARKETS HAS GAINED TREMENDOUS STRENGTH BECAUSE OF BUYERS' SIZE. BUT THE PRODUCERS' SIDE IS STILL MADE UP OF INDIVIDUAL FARMERS. THEIR ONLY REALISTIC HOPE OF SOME EQUITY IN THE MARKET IS EFFECTIVE COOPERATION.

A FALSE STEP BASED ON A MISTAKEN VIEW OF COMPETITIVE FORCES IN AGRICULTURE COULD WELL LEAD TO INCREASED GOVERNMENT REGULATION. THIS COUNTRY CANNOT ALLOW, AND WILL NOT PERMIT, THE EFFICIENT PRODUCERS OF OUR MOST BASIC NEEDS TO BE PUSHED TO THE EDGE OF FAILURE. IF THE PROTECTION GIVEN THESE

INDIVIDUAL FARMERS IF WEAKENED, WE MAY BE FORCED MORE DEEPLY INTO MARKET INTERVENTION BY GOVERNMENT. THE WHOLE PURPOSE OF OUR NATIONAL ANTITRUST POLICY OF PRESERVING INDIVIDUAL OPPORTUNITY WOULD BE LOST FOR THE FARMER, AND IF IT FAILS FOR THE FARMER, WE WILL ALL PAY A TERRIBLE PRICE."

I AM PERSONALLY IN FULL AGREEMENT WITH SECRETARY BERGLAND. I THINK HIS WORDS MAKE A COMPELLING ARGUMENT ON BEHALF OF THE FARM COOP SYSTEM AND THE WISDOM OF WHICH CANNOT ESCAPE EVEN OUR HARSHTEST CRITICS.

THANK YOU VERY MUCH.

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